

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

AARON M. GRAY,

Plaintiff,

vs.

Civil Action 2:08-CV-251
Judge Watson
Magistrate Judge King

RICK ROSE, et al.,

Defendants.


ORDER

This is a civil rights action under 42 U.S.C. §1983 in which plaintiff, a state prisoner, claims a violation of his constitutional rights as a result of events that allegedly occurred in the Muskingum County Jail. On July 1, 2008, the United States Magistrate Judge issued a *Report and Recommendation* recommending that the motion to dismiss filed by the defendant city be granted and that plaintiff's motion opposing the city's motion be denied. Doc. No. 25. This matter is now before the Court on plaintiff's objections to the *Report and Recommendation*, which the Court will consider *de novo*. See 28 U.S.C. §636(b).

The objections are based on plaintiff's misreading of the *Report and Recommendation*. The *Report and Recommendation* addressed only the motions relating to the defendant city; the remaining defendants have not moved to dismiss the claims asserted against them and the *Report and Recommendation* did not address such claims. In the *Report and Recommendation*, the United States Magistrate Judge noted -- correctly -- that the complaint contains no allegations of wrongdoing on the part of the city or its employees or agents and therefore recommended that the

claims against the defendant city be dismissed. The *Report and Recommendation* did not recommend that the entire case, or indeed any claims other than those against the defendant city, be dismissed.

Having reviewed the record in this action, the *Report and Recommendation* and plaintiff's objections, the Court **ADOPTS** and **AFFIRMS** the *Report and Recommendation*. The motion to dismiss filed on behalf of the defendant city, Doc. No. 12, is **GRANTED** and plaintiff's motion in opposition, Doc. No. 21, is **DENIED**. The City of Zanesville is **DISMISSED** from this action. The case remains pending against the other defendants.



Michael H. Watson
United States District Judge